IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1299 OF 2005

WITH

CIVIL APPLICATION NO. 3159 OF 2005

The Evangelical Alliance
Ministries & Ors. ..Appellants

versus

The Evangelical Alliance
Ministries & Ors. ..Respondents

Mr. R. G. Ketkar for the Appellants.
Mr. R. V. Govilkar for the Respondent Nos. 1, 2 and 3.
Mr. A. R. Patil, AGP for the State.
Mr. Y. D. Mulani for Respondent Nos. 5 and 6.

CORAM : D. G. DESHPANDE,J.

DATE : 28TH SEPTEMBER,2005

ORAL ORDER :

1. Heard learned counsel for the parties.

2. The appeal is for admission. By consent the same is taken for final hearing.

3. The impugned order for remand is dated 22.6.2005 passed by IInd Adhoc Additional District Judge, Nasik, by which Civil Misc. Application No. 2 of 2004 is allowed, setting side the order of the Deputy Charity Commissioner dated 17.2.2004 and the Deputy Charity Commissioner was directed to hold an enquiry as contemplated under Section 50 of the Bombay Public Trust Act.

4. The grievance of the appellants is that the the District Court ought to have decided the issue of jurisdiction then and there.

5. I do not find that it was necessary and obligatory upon the District Judge to decide the issue, therefore, it is clarified that the Deputy Charity Commissioner, Nashik, holds enquiry as per the impugned Order. All the issues regarding merits and claim of both the parties and the claim of jurisdiction will be decided simultaneously at the time of final decision. No issue will be decided as a preliminary issue. The enquiry will be completed by the Deputy Charity Commissioner, Nasik, within three months from the date of first appearance of the parties. Parties will appear before the Deputy Charity Commissioner, Nashik on 17.10.2005.

6. Prayer for continuation of ad interim

reliefs granted in terms of (a) and (b) of the Civil Application, was strongly opposed by the Respondents. Their contention is that in any case there should be restraint upon the appellants in alienating the property or any policy decision. Looking to the activities of the trust, no restriction about policy can be put upon the appellants. So far as alienation is concerned, if any alienations are urgently and immediately required for carrying out the activities of the trust, the appellants to inform the Deputy Charity Commissioner.

7. With above directions, Appeal disposed of along with Civil Application. No order as to costs.

8. Certified copy expedited.

28.9.2005 (D.G. DESHPANDE, J.)